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Response to the Communication dated December 20, 2004

Country: WO PCT
Application No.: PCT/SI03/00036
Filing date: 16.10.2003
Patent: Pharmaceutical Formulation of Olanzapine
Applicant: KRKA tovarna zdravil, d.d., Novo mesto

Dear Sirs,

Enclosed are new claims 1 to 16 which -- without prejudice -- are supposed to replace claims 1 to 17 as presently on file.

Claim 1 has been amended as suggested by the Examining Division and is now worded in the form of a "product-by-process" claim. In addition, it has been clarified that the terms "monosaccharide" and "oligosaccharide" include reduced and oxidised forms thereof. The amendments of claim 1 are based on former claim 1 in combination with original claim 17, page 5, 5th paragraph and page 7, 3rd paragraph of the published application.

Former claim 14 was deleted and the remaining claims were renumbered accordingly.

Former claim 17 has been amended in accordance with claim 1 by indicating that the terms monosaccharide and oligosaccharide include oxidised forms of these substances.

Since novelty and inventive step of former claim 17 over Document D1 (EP 0 830 858 A1) has already been acknowledged by the Examining Division in the above-referenced communication, it is believed that the new claims meet these requirements as well and that no further comments are needed in this regard.

Document D2 (WO 03/086361) was cited as possible prior art under Article 54(3) EPC.

D2 was filed on April 18, 2002 and was published on October 23, 2003. The filing date of this document lies before the priority date of the present application (October 18, 2002), however, D2 was only published after the application date of the present invention. D2 is an international patent application. According to Article 158(1) EPC international applications represent prior art under Article 54(3) only if the conditions laid down in Article 158(2) EPC are fulfilled, i. e. if the international application is supplied to the European Patent Office in one of its official languages and if the national fee for this application is paid to the European Patent Office.

According to the European register of patents these conditions are not fulfilled. Enclosed is a copy of the communication of the European Patent Office dated December 28, 2004 to the applicant of D2 indicating that the national basic fee, the designation fees and the examination fees were not validly paid. It follows that D2 does not represent prior art under Article 54(3) EPC.

Since all objections of the Examining Division have been overcome, issuance of a positive international preliminary examination report is respectfully requested.

Enclosures: New claims 1 to 16
Copy of communication dated December 28, 2004 for D2

Yours faithfully,
PATENTNA PISARNA d.o.o.

